

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-3778

United States of America,

Appellee,

v.

Leroy J. Brown,

Appellant.

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* Appeal from the United States
* District Court for the Western
* District of Missouri
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* [UNPUBLISHED]
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Submitted: August 5, 2002

Filed: August 28, 2002

Before McMILLIAN, MORRIS SHEPPARD ARNOLD, and BYE, Circuit Judges.

PER CURIAM.

Leroy J. Brown appeals from the final judgment entered in the District Court¹ for the Western District of Missouri after he pleaded guilty to possessing methamphetamine in violation of 21 U.S.C. § 841(a)(1), and possessing a firearm in furtherance of a drug crime in violation of 18 U.S.C. § 924(c)(1)(A). The district court sentenced appellant to consecutive prison terms of 108 months and 60 months, followed by 3 years of supervised release. His counsel has moved to withdraw and

¹The Honorable Gary A. Fenner, United States District Judge for the Western District of Missouri.

filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing for reversal that the district court erred in not granting Brown's U.S.S.G. § 5H1.4 motion for a downward departure.

We conclude that the district court's discretionary refusal to grant a downward departure is unreviewable. See United States v. Wolf, 270 F.3d 1188, 1192 (8th Cir. 2001). Having found no nonfrivolous issues following our independent review of the record in accordance with Penson v. Ohio, 488 U.S. 75, 80 (1988), we grant counsel's motion to withdraw.

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.